



S/N 10/825,483

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	METZGER ET AL.	Examiner:	U. HO
Serial No.:	10/825,483	Group Art Unit:	3731
Filed:	April 14, 2004	Docket No.:	13033.5USC1
Title:	STIFFENING PHARYNGEAL WALL TREATMENT		

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 26, 2006.

By:

Name:

Linda M. Beckman
Linda M. Beckman

DECLARATION OF JOHN P. SOPP
UNDER 37 C.F.R. §1.131

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

23552


PATENT TRADEMARK OFFICE

John P. Sopp declares as follows:

1. I am one of the co-inventors of the subject matter of above-referenced patent application which is a continuation application of U.S. Patent Application Ser. No. 10/237,149 filed September 6, 2002 as a continuation-in-part application of 10/066,967 filed February 4, 2002.
2. I submit this declaration as evidence that the invention disclosed and claimed in the '483 application was invented prior to August 13, 2002. More specifically, the invention of placing an implant in the pharyngeal airway with elasticity of the implant biasing the airway to patency was invented prior to August 13, 2002. Attached as Exhibit A (one page) is a true and correct copy of a drawing I had prepared at least as early as February or March 2002 illustrating placement of placing elongated struts in the pharyngeal wall to treat obstructive sleep apnea ("OSA").
3. The foregoing statements are made of my own knowledge and are true. I hereby acknowledge I am warned that willful false statements and the like are punishable by fine

or imprisonment, or both and may jeopardize the validity of the application or any patent issuing thereon (35 U.S.C. Sec. 25 and 18 U.S. C. Sec. 1001).

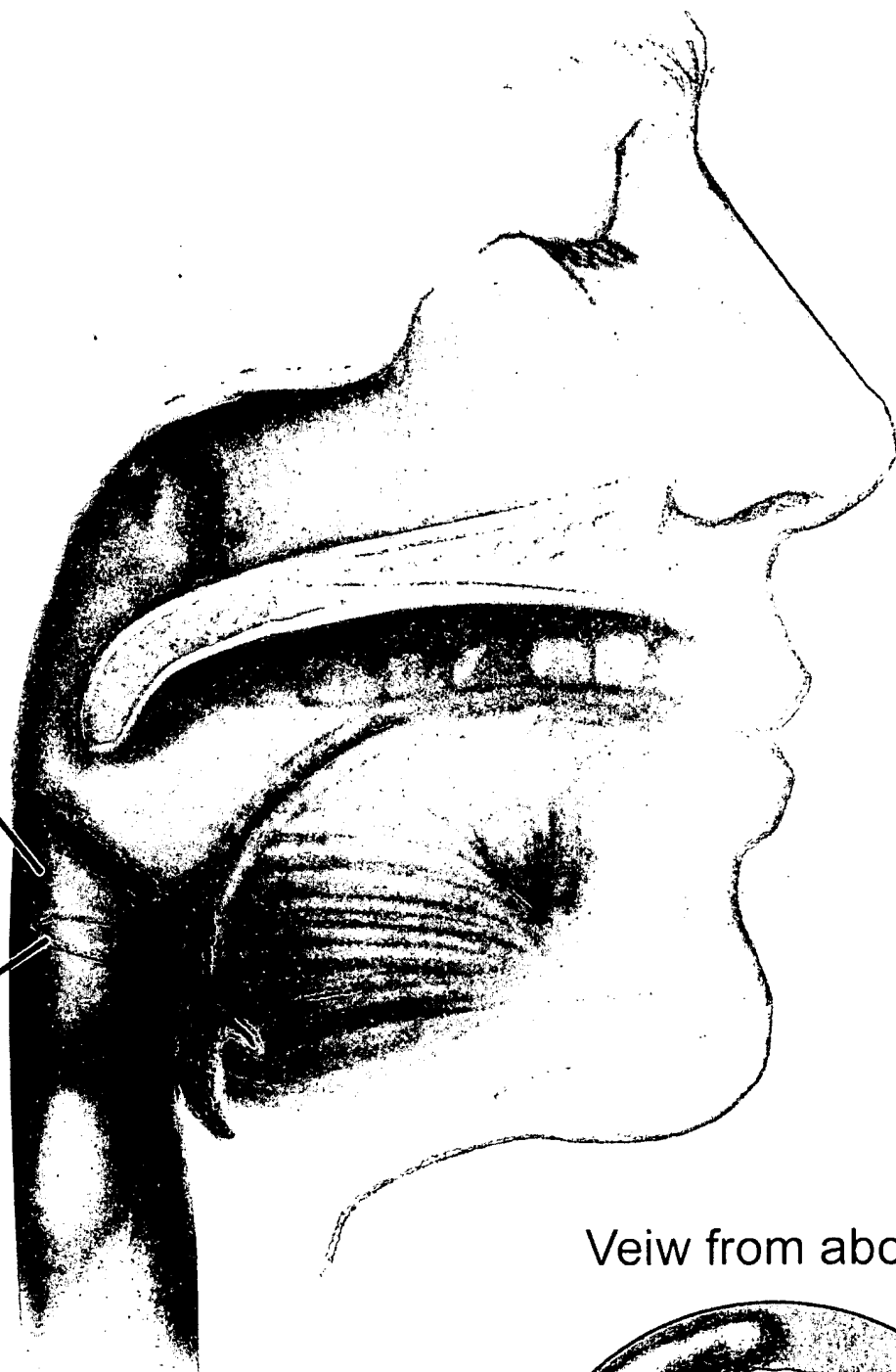
Dated: March 27, 2006

By: 
John P. Sopp

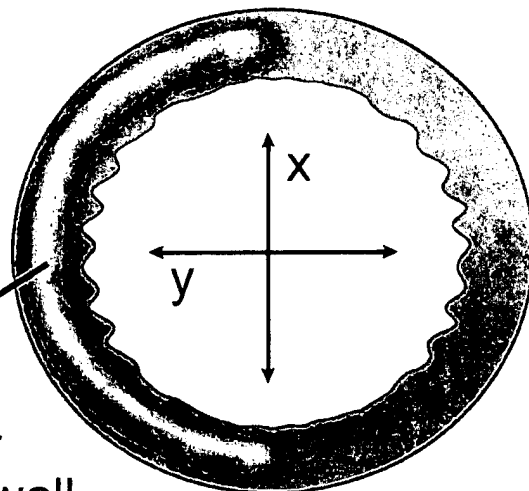


Pharynx

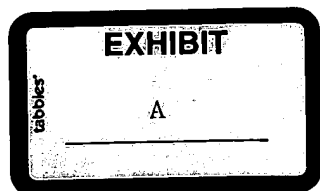
Implant



View from above



Implant in posterior
half of pharyngeal wall



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